

REMARKS

In response to the Office Action dated May 28, 2003, the Applicant has amended Claims 1 and 17. Thus, Claims 1-8, 11-19, 21, 22, 24-29 and 31 remain pending in the application. Reconsideration of the claims, as amended, is respectfully requested.

Claim 1 recites the step of "calculating, at the speech decoder, variability information indicative of variability of a background noise parameter, wherein said calculation step includes the step of obtaining the variability information independently of the communication channel." In response to Applicant's arguments that this limitation was not disclosed, the Official Action referred to page 9, line 50 and stated that Jarvinen teaches generating comfort noise "variability information" at the receiving side "speech decoder" of the system instead of utilizing noise that was transmitted which reads on Applicant's claim. Initially, Applicant notes that the generation of comfort noise is not equivalent to the generation of variability information. In fact, it is clear in Applicant's Claim 1 that "comfort noise" and "variability information" are two separate and distinct things. A calculation is made to determine variability information. Claim 1 states that variability information is indicative of variability of a background noise parameter. Comfort noise is not indicative of variability of a background noise parameter. Furthermore, variability information is used to perturb the comfort noise parameter values and then comfort noise is generated according to these modified comfort noise parameter values. Thus, Applicant's Claim 1 has distinctly differentiated between variability information and comfort noise which is produced responsive to the calculated variability information. Thus, the Official Action's indication that the generation of comfort noise is equivalent to Applicant's recited limitation of

calculating variability information is not appropriate. A Notice of Allowance for Claim 1, and all claims dependent therefrom, is respectfully requested.

Claim 17 includes a "variability estimator coupled to said second input and responsive to the background noise parameter for calculating variability information indicative of variability of the background noise parameter". Applicant respectfully submits that for reasons similar to those of Claim 1, Claim 17 is allowable over the combination of Jarvinen and Solve. A Notice of Allowance for Claim 17, and all claims dependent therefrom, is respectfully requested.

The Official Action questions Applicant's arguments that the combination of Jarvinen and Solve do not describe Applicant's step of perturbing comfort noise values in response to variability information indicative of variability of the background noise parameter. Applicant initially notes that they are not attacking the references individually but are arguing in essence that if reference 1 does not disclose A and reference 2 does not disclose A it is not possible for the combination of references 1 and 2 to disclose A. If a particular element or limitation is not disclosed in either reference, the Applicant does not see how the combination of references can teach this element without improperly relying upon Applicant's disclosure.

The Official Action has stated that Jarvinen discloses producing modified comfort noise parameters and recites page 6, lines 24-25. This section recites that a noise sequence is generated and scaled by a scaling factor. The Official Action's position is apparently that this modification by the scaling factor discloses modifying comfort noise parameter. The Applicant submits and the Examiner apparently agrees that while this illustrates modification

of the sequence by the scaling factor, it does not disclose perturbing the comfort noise parameter values in response to the variability information indicative of variability of the background noise parameter. The Official Action states that using noise variability information to modify signals is well known in the art and cites the Solve reference as disclosing a system for adaptively reducing noise in a speech signal which implements a variable attenuator and noise estimator and continuously updates and adapts noise control. Applicant first notes that Applicant is not claiming using noise variability information to modify signals. Applicant is claiming using noise variability information to modify comfort noise parameter values. All of Applicant's claim limitations must be read when interpreting the claim language. Furthermore, Applicant has read column 3, line 55 - column 4, line 11 and finds neither a discussion of using noise variability information to modify comfort value parameters nor to modify signals. Solve et al. describes attenuating a signal based upon a determined amount of speech information and an estimate of noise in order to minimize the background noise in the signal. There is no discussion of the use of noise variability information but merely describes making an estimation of the noise itself. No modifications are made to comfort noise parameters but are made upon a received signal. While the Solve reference does describe that it may be used in a telecommunications system, nothing describes or suggests that it would be applicable to comfort noise values when the Abstract clearly recites that the purpose is to minimize background noise. Therefore, the Applicant respectfully submits that if Claim 1 and 7 are distinguishable from the combination of Jarvinen and Solve for this reason also. A Notice of Allowance for these claims, and all claims dependent therefrom, is respectfully requested.

In view of the foregoing amendments and comments, the Applicant respectfully submits that all pending claims are allowable over the art of record and the Notice of Allowance is respectfully requested.

Respectfully submitted,

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